

Missouri Department of Natural Resource
Regulatory Impact Report
For
Proposed Amendment 10 CSR 10-5.160

Division/Program Division of Environmental Quality/Air Pollution Control Program

Rule number 10 CSR 10 5.160 Rule title Control of Odors in the Ambient Air

Type of rule: Amendment

Nature of the rule: Sets environmental conditions or limits

Submitted by

Program Director

Date

Approval of the Completed Regulatory Impact Report

Legal Counsel

Date

Division Director

Date

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Applicability: Pursuant to Section 640.015 RSMo, “all rulemakings that prescribe environmental conditions or standards promulgated by the Department of Natural Resources...shall... be based on the regulatory impact report...” This requirement shall not apply to emergency rulemakings pursuant to section 536.025 or to rules of other applicable federal agencies adopted by the Department “without variance.”

The Missouri Department of Natural Resources has determined this rulemaking prescribes environmental conditions or standards and verifies that this rulemaking is not a simple unvarying adoption of rules from other federal agencies. Accordingly, the Department has produced this regulatory impact report which will be made publicly available for comment for a period of at least 60 days. Upon completion of the comment period, official responses will be developed and made available on the agency web page prior to filing the proposed rulemaking with the Secretary of State. Contact information is at the end of this regulatory impact report.

1. Describe the environmental conditions or standards being prescribed.

The proposed rulemaking will amend sections and subsections in the rules that describe methods of odor measurement by eliminating the language "...as agreed to at the time by the source operator and the staff director". Removing this language will allow additional flexibility in taking odor measurements with instruments other than a Scentometer when the operator is not present.

The proposed rulemaking will amend subsections to replace the current 5.4:1 dilution ratio specified in the rule for odorous emissions from Class IA concentrated animal feeding operations with a 7:1 dilution ratio. After reviewing odor emission data collected at the two different dilution ratios and verifying there would be no degradation in air quality, the Missouri Air Conservation Commission directed the staff director to use the 7:1 dilution ratio for the scentometer standard as partial resolution to litigation.

2. A report on the peer-reviewed scientific data used to commence the rulemaking process.

Determining the scentometer dilution ratio was based upon scientific data collected by the department's Air Pollution Control Program.

3. A description of the persons who will most likely be affected by the proposed rule, including persons that will bear the costs of the proposed rule and persons that will benefit from the proposed rule.

All businesses are affected by changing the language on instrumentation, while Class IA concentrated animal feeding operations will be affected by the dilution ratio change. The costs associated with this rulemaking are assumed to be negligible because the

amendment does not impose any additional requirements on businesses. Inspectors for the Department of Natural Resources will benefit by being able to use additional odor evaluation instruments for compliance and complaint investigations.

4. A description of the environmental and economic costs and benefits of the proposed rule.

The environmental and economic costs associated with the proposed rule are assumed to be negligible. The benefits are the ability to use additional odor evaluation instruments for compliance and complaint investigation and the same dilution ratio for all odor investigations.

5. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenue.

There are no probable costs for the department or any other public agency as a result of this rulemaking because the amendment does not impose any additional requirements on the department or any public agency.

6. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction, which includes both economic and environmental costs and benefits.

The costs of the proposed rule, both economic and environmental, are assumed to be negligible compared to inaction since the amendment does not impose any additional requirements. The benefits are the ability to use additional odor evaluation instruments for compliance and complaint investigation and the same dilution ratio for all odor investigations.

7. A determination of whether there are less costly or less intrusive methods for achieving the proposed rule.

The department is not aware of a less costly or intrusive method for achieving the proposed rule.

8. A description of any alternative method for achieving the purpose of the proposed rule that were seriously considered by the department and the reasons why they were rejected in favor of the proposed rule.

The rulemaking process is considered by the department as the best way to achieve the purpose of the proposed rule because it changes the rule language and goes through the public hearing process.

9. An analysis of both short-term and long-term consequences of the proposed rule.

The short-term and long-term consequences of the proposed rule are positive in that the department will have the ability to use additional odor evaluation instruments for compliance and complaint investigation and the same dilution ratio for all odor investigations.

10. An explanation of the risks to human health, public welfare or the environment addressed by the proposed rule.

Odor can be a nuisance to those people living near odor sources. Strong odors can interfere with the public's ability to enjoy their property as well as other outdoor activities. There are also health concerns about living near odor sources. People may be susceptible to the compounds making up the odor, aggravating existing health problems or creating new health problems.

11. The identification of the sources of scientific information used in evaluating the risk and a summary of such information

Determining the scentometer dilution ratio was based upon scientific data collected by the department's Air Pollution Control Program.

12. A description and impact statement of any uncertainties and assumptions made in conducting the analysis on the resulting risk estimate.

Not applicable.

13. A description of any significant countervailing risks that may be caused by the proposed rule.

Not applicable.

14. The identification of at least one, if any, alternative regulatory approaches that will produce comparable human health, public welfare or environmental outcomes.

None Known.

15. Provide information on how to provide comments on the Regulatory Impact Report during the 60-day period before the proposed rule is filed with the Secretary of State.

Formal comments can be provided on either the Regulatory Impact Report or the draft rule text by sending them to the contact listed below.

Questions and/or comments may be sent to:

Chief, Operations Section
Missouri Department of Natural Resources' Air Pollution Control Program

P.O. Box 176
Jefferson City, MO 65102-0176

or

Missouri Air Conservation Commission
P.O. Box 176
Jefferson City, MO 65102-0176

or call: (573) 751-4817

16. Provide information on how to request a copy of comments or the web information where the comments will be located.

Copies of formal comments made on either the Regulatory Impact Report or the draft rule text may be obtained by request from the contact listed above or by accessing the Rules In Development section at website www.dnr.mo.gov/alpd/apcp/homeapcp.htm for this particular rulemaking.